

DECLARATION OF CHRISTOPHER CHEW

I, Christopher Chew, Special Agent with the Internal Revenue Service Criminal Investigation Division (“IRS-CI”) do hereby declare:

Introduction and Agent Background

1. I am a Special Agent with the Internal Revenue Service Criminal Investigation Division (“IRS-CI”) and have been so employed since 2011. I am currently assigned to the Washington, D.C. Field Office and keep an office in Baltimore, Maryland as part of a financial crimes task force. My responsibilities include the investigation of potential criminal violations of the Internal Revenue Code (Title 26 of the United States Code), the Money Laundering Control Act (Title 18, United States Code, Chapter 95), the Bank Secrecy Act (Title 31, United States Code), and other related offenses. If called upon, I can testify to the facts set forth in this declaration.

Purpose of This Declaration

2. This declaration is submitted in support of a complaint for forfeiture *in rem* of the following property:

- a. \$251,214.93 in U.S. Currency seized on or about August 6, 2021 from Bank of America account number ending in 3203 held in the name of Tabernacle of Refuge Ministries, Inc. (“BOA x3203”);
- b. \$497,530.53 in U.S. Currency seized on or about October 27, 2021 from Capital One Bank account number ending in 8678 held in the name of Kingdom Tabernacle of Refuge Ministries Inc (“CapOne x8678”); and
- c. \$250,790.96 in U.S. Currency seized on or about October 27, 2021 from Bank of America account number ending in 3268 held in the name of Three Bea’s Incorporated (“BOA x3268”)

(collectively, the “Defendant Property”).

3. I submit that there are sufficient facts to support a reasonable belief that the Defendant Property, constitutes (a) property involved in a transaction or attempted transaction in violation of the federal money laundering statutes, 18 U.S.C. §§ 1956 or 1957, or property traceable to such property, and is thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A); or (b) proceeds traceable to false statements made on bank loan applications, in violation of 18 U.S.C. §§ 1343 (Wire Fraud) and 1344 (Bank Fraud), and is thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C).

Background on the Paycheck Protection Program

4. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in March 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering from the economic consequences of COVID-19.

5. The CARES Act authorized up to \$659 billion in forgivable loans to small businesses for employee retention and certain business expenses through a program called the Paycheck Protection Program (“PPP”).

6. The program authorizes qualifying small businesses and other organizations to receive loans that are 100 percent guaranteed by the Small Business Administration (“SBA”), and the full principal amount of the loans may qualify for loan forgiveness. The business must use PPP loan proceeds on payroll costs, mortgage interest, rent, and utilities. Initially, the program allowed the principal to be forgiven if the business spent the loan proceeds on qualifying expenses within eight weeks of loan issuance and used at least 75 percent of the loan for payroll. On June 5, 2020, the Paycheck Protection Program Flexibility Act of 2020 went into effect. This law extended the period from eight weeks to 24 weeks that the loan proceeds had to be spent and reduced the requirement that the loan proceeds be spent on payroll from 75 percent to 60 percent.

7. The business's number of employees and average monthly payroll costs for the 12-month period prior to the disaster determine the amount of PPP funding that the business may receive. Businesses applying for a PPP loan must provide documentation showing their payroll expenses.

8. To qualify for eligibility, businesses applying for a PPP loan needed to be in operation as of February 15, 2020.

9. The SBA administers the program and has authority over all PPP loans. However, approved lenders (usually private banks and credit unions) issue the loans. The lenders receive and process PPP applications and supporting documentation, then make the loans using their own funds.

10. Customers Bank is a federally insured financial institution headquartered in Phoenixville, Pennsylvania. Customers Bank participated as a lender in the PPP.

Summary of Facts Supporting Forfeiture of the Defendant Property

Relevant Individuals and Entities

11. Rudolph Elwood Brooks, Jr., also known as Rudolph Brooks, Jr. ("Brooks") is a Maryland resident and the owner of Cars Direct by Gavawn HWD Bob's Motors ("Cars Direct"), Madaro, LLC ("Madaro"), and Kingdom Tabernacle of Restoration Ministries ("Kingdom Tabernacle of Restoration").¹ Brooks applied for and received Paycheck Protection Program ("PPP") loans for each of the foregoing businesses. Brooks transmitted materially fraudulent PPP loan applications and supporting documentation to Celtic Bank, through its originating agent,

¹Internal Revenue Service records and the PPP loan application contain the name Kingdom Tabernacle of Restoration Ministries, while some financial records, corporate records, and the Economic Impact Disaster Loan application contain the name Tabernacle of Restoration Ministries. Although there are two names, they contain the same Taxpayer Identification Number and describe the same business owned by Brooks.

Bluevine Incorporated, and thereafter laundered the proceeds through at least 15 bank accounts and used the proceeds to make impermissible purchases under the Paycheck Protection Program.

12. On March 29, 2021, the Honorable Gina L. Simms issued a criminal complaint (“criminal complaint”) charging Brooks with wire fraud in connection to the fraudulent PPP loan obtained in the name of Cars Direct for \$1,556,589. Subsequently, on April 2, 2021, Brooks was arrested pursuant to the criminal complaint and was released on personal recognizance. *See* Case No. GLS-21-mj-00695. On September 22, 2021, a federal grand jury sitting in the District of Maryland returned an indictment charging Brooks with wire fraud and money laundering in connection with the fraudulent PPP loans obtained in the name of Cars Direct, Madaro, and Kingdom Tabernacle of Restoration and the laundering of the fraudulent PPP loan proceeds, including the purchase of a 2018 Tesla Model 3 and real properties located in Baltimore, Maryland and Upper Marlboro, Maryland.² *See* Criminal No. PWG-21-371.

13. Burton Shawun Sherbert (“Sherbert”), is a Maryland resident and the senior pastor and a trustee of Kingdom Tabernacle of Refuge Ministries, Inc. (“Tabernacle of Refuge”).³ Tabernacle of Refuge was registered with the Maryland SDAT on August 21, 2008 with Brooks initially listed as the resident agent. At an unknown point in time, the resident agent listed was changed to Sherbert, who remains the registered agent with Maryland SDAT.

14. Connie Beatrice Stewart (“Stewart”), is Sherbert’s mother and a Maryland resident. Stewart incorporated Three Bea’s Incorporated with the Maryland Department of Assessments &

² On August 12, 2021, the United States filed a civil forfeiture complaint against the real property located in Upper Marlboro, Maryland, Commonly Known as 10800 Brookes Reserve Road, Upper Marlboro, MD 20772. *See* Civil No. PWG-21-2042.

³ Internal Revenue Service records and Maryland corporate records contain the name “Kingdom Tabernacle of Refuge Ministries,” while the PPP loan application contains the name “Kingdom Tabernacle of Refuge.” Although there are two names, they contain the same Taxpayer Identification Number and describe the same business.

Taxation (“Maryland SDAT”) on May 11, 2020. Stewart was the sole incorporator and is listed as the resident agent for Three Bea’s Incorporated. The Articles of Incorporation state that the purpose for the corporation is “Assisted Living.” The corporation remains in good standing.

15. Brooks opened BOA x3203 on June 25, 2018 in the name of “Tabernacle of Refuge Ministries, Inc.” and was initially the sole signer on the account with a listed title of “Pastor.” On June 30, 2020, an amended signature card added Sherbert as a signatory on the account, with a listed title of “President,” Stewart was also listed as “Trustee,” and, Levonne Wiseman was listed as “Treasurer.” Brooks remained an authorized signatory on the amended signature card, but his titled was revised to “Vice President.” On April 8, 2021, approximately six days after Brooks’ arrest, Brooks was removed from the signature card for BOA x3203.

16. As set forth in detail below, on or about March 31, 2021, two days before Brooks’ arrest, Sherbert, or someone purporting to be Sherbert, applied for a \$1.517 million PPP loan in the name of Tabernacle of Refuge. The \$1.517 million Tabernacle of Refuge PPP loan was funded on or about April 16, 2021 and the proceeds were deposited into BOA x3203 on April 19, 2021, less than two weeks after Brooks was removed as a signer from the account. On the PPP loan application, the Tabernacle of Refuge listed its address as 10410 Gloucester Road, Cheltenham, Maryland. Maryland property records show that Brooks is the owner of the same Cheltenham address, and the address was used by Brooks on prior fraudulent PPP loan applications and set forth below. On August 6, 2021, U.S. Magistrate Judge Gina L. Simms issued a seizure warrant for all funds held in BOA x3203.

17. A portion of the proceeds of the Tabernacle of Refuge PPP loan were transferred via the purchase of two cashier’s checks to two bank accounts: \$497,367 to CapOne x8678 in the

name of Tabernacle of Refuge and \$262,000 to BOA x3268 in the name of Three Bea's Incorporated.

18. Stewart opened BOA x3268 in the name of Three Bea's Incorporated on May 11, 2020. Both Stewart and Sherbert are authorized signers on BOA x3268 with Stewart listed as "President" and Sherbert listed as "Signer."

19. On October 27, 2021, U.S. Magistrate Judge Gina L. Simms issued seizure warrants for up to \$497,530.53 in CapOne x8678 and up to \$262,000 held in BOA x3268.

Tabernacle of Refuge PPP Loan

20. On or about March 31, 2021, Tabernacle of Refuge submitted a PPP loan application, purportedly through Sherbert, to SmartBiz Loans ("SmartBiz") for a \$1,517,000 PPP loan. SmartBiz is a company headquartered in San Francisco, California set up to assist small businesses apply for loans, including Small Business Administration PPP loans.

21. The loan application falsely represented that the Tabernacle of Refuge had 74 employees and an average monthly payroll of \$606,800. During an October 21, 2021 interview with investigators, Sherbert stated the number of employees listed on the loan application was not correct and the payroll costs were too high.

22. In support of the loan application, Tabernacle of Refuge submitted to SmartBiz, a fraudulent 2020 Form 1120-S, U.S. Income Tax Return for an S Corporation that falsely reported \$10,922,400 in gross receipts, \$7,187,626 in salaries and wages, and \$642,951 in ordinary business income. Tabernacle of Refuge also submitted a fraudulent IRS Form 940⁴ that falsely reported \$7,281,600 in total payments to employees for the Tabernacle of Refuge. The IRS Form 940

⁴ The Form 940 is the Employer's Annual Federal Unemployment ("FUTA") Tax Return. Together with state unemployment tax systems, the FUTA tax provides funds for paying unemployment compensation to workers who have lost their jobs.

which purportedly was signed by Sherbert, listed him as the President of Tabernacle of Refuge. During the same October 21, 2021 interview with law enforcement, Sherbert admitted to investigators that the gross receipts and salary and wage figures listed for Tabernacle of Refuge on the 2020 Form 1120-S form were inflated and stated that he had not seen and did not sign the IRS Form 940 that was submitted with the Tabernacle of Refuge PPP loan application.

23. Records obtained from the IRS reflect that neither the foregoing Form 1120-S nor the Form 940 were on file with the IRS. Further, the search did not indicate records of any filings, to include Forms 1120-S and 940, made by Tabernacle of Refuge, for any tax periods prior to the submission of the Tabernacle of Refuge PPP loan application. Based on this information, it appears that the Forms 1120-S and 940 provided by Tabernacle of Refuge to SmartBiz, and purportedly signed by Sherbert, in support of the Tabernacle of Refuge PPP loan application were fraudulent.

24. Notably, the address listed for Tabernacle of Refuge on the PPP loan application is 10410 Gloucester Road, Cheltenham, Maryland. Maryland property records show that Brooks is the owner of the Cheltenham address. In addition, Brooks listed the Cheltenham address on prior fraudulent PPP loan applications for Brooks' businesses Cars Direct and Kingdom Tabernacle of Restoration.

25. Based on IRS tax records, as recently as the 2017 tax year, Brooks reported Sherbert as his brother and dependent on his individual income tax return.⁵ However, in the October 21, 2021 interview with law enforcement, Sherbert denied that Brooks was a relative.

26. Between March 31, 2021 and May 13, 2021, the SmartBiz account associated with the online application for the Tabernacle of Refuge PPP loan was logged into from three IP

⁵ The 2017 tax year was the last year that IRS records reflect an individual income tax return on file for Brooks.

addresses later determined to be assigned to Sherbert, “Randolph Brooks,”⁶ and a law firm that previously represented Brooks in connection with his criminal case. The following chart summarizes these logins to the loan application:

Sign-In Date and Time (UTC)	IP Address	Subscriber
4/1/2021 1:43	76.21.150.48	Randolph Brooks
4/5/2021 23:59	76.21.150.48	Randolph Brooks
4/12/2021 23:45	73.173.61.159	Law Firm
4/12/2021 23:45	73.173.61.159	Law Firm
4/30/2021 13:23	73.132.230.248	Burton Sherbert

An additional eight logins to the Tabernacle of Refuge loan application were from IP addresses assigned to cell phones that cannot be linked to a single subscriber.

The \$1.517 Million Tabernacle of Refuge PPP Loan Proceeds

27. On April 16, 2021, the Tabernacle of Refuge PPP loan was approved and executed. Sherbert is listed on the note for the loan as the President of the Tabernacle of Refuge. BOA x3203 is listed as the deposit account for the PPP loan proceeds. On April 19, 2021, Customers Bank deposited the \$1,517,000.00 PPP loan proceeds into BOA x3203.

28. On June 28, 2021, Sherbert withdrew a total of \$960,367 in proceeds from the Tabernacle of Refuge PPP loan from BOA x3203: one counter withdrawal in the amount of \$497,367 and a second counter withdrawal in the amount of \$463,000. The first withdrawal was for the purchase of cashier’s check no. 0875925871 for \$497,367 made payable to “Tabernacle of Refuge Ministries, Inc.” The second withdrawal was for the purchase of four separate cashier’s checks,⁷ including cashier’s check no. 0875925867 for \$262,000 made payable to “3 Bea’s Inc.”

⁶ As previously noted, “Randolph Brooks” is believed to be a typographical error or alias for Brooks.

⁷ The three other cashier’s checks were made payable to Brooks, Levonne Wiseman, and a third individual, Antoine Smith. These funds were not recovered.

29. On June 28, 2021, cashier's check no. 0875925867 in the amount of \$262,000 was deposited into the Three Bea's Incorporated account, BOA x3268, controlled by Stewart and Sherbert.

30. On July 30, 2021, Sherbert deposited the \$497,367 cashier's check no. 0875925871 drawn on BOA x3203 into CapOne x8678. Sherbert opened CapOne x8678 on July 30, 2021—the same day as the deposit—in the name of “Kingdom Tabernacle of Refuge Ministries, Inc.” Sherbert is the sole signer on CapOne x8678 and the cashier's check was the opening transaction on the account. Capital One flagged the transaction as suspicious and put a freeze on the funds. According to a September 2021 bank statement, the only other transactions in CapOne x8678 were for interest paid on the \$497,367 in fraud proceeds.

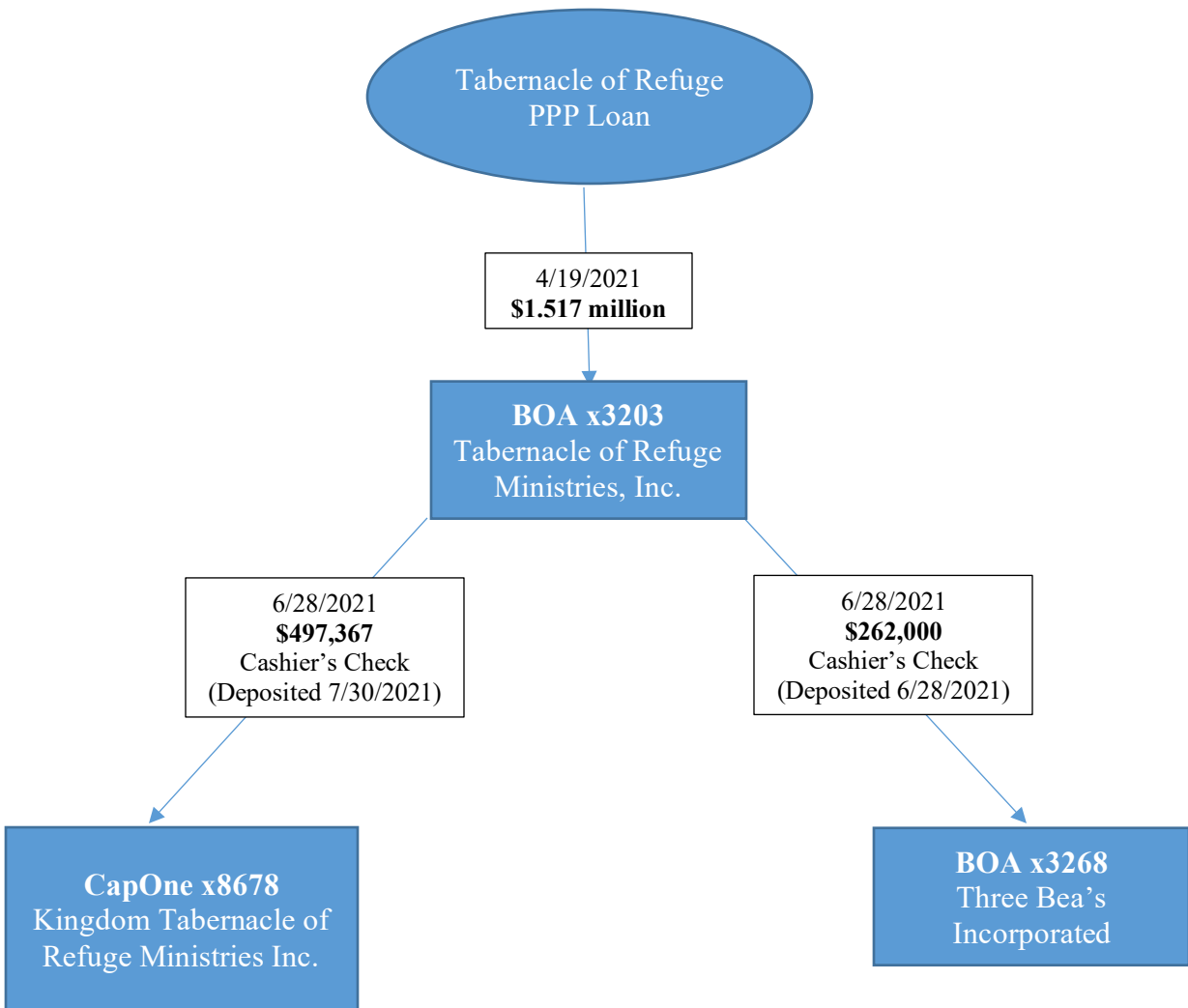
Seizure of Funds Traceable to Tabernacle of Refuge PPP Loan Proceeds

31. On August 6, 2021, U.S. Magistrate Judge Gina L. Simms issued a seizure warrant for all funds held in BOA x3203. The seizure warrant was served on Bank of America on August 6, 2021 and \$251,214.93 in U.S. Currency was recovered from Bank of America via check issued on August 11, 2021.

32. On or about October 27, 2021, U.S. Magistrate Judge Gina L. Simms issued a seizure warrant for up to \$497,530.53 in CapOne x8678. The seizure warrant was served on Capital One on October 27, 2021 and \$497,530.53 in U.S. Currency was recovered from Capital One via a check issued on November 19, 2021.

33. On or about October 27, 2021, U.S. Magistrate Judge Gina L. Simms issued a seizure warrant for up to \$262,000 held in BOA x3268. The seizure warrant was served on Bank of America on October 27, 2021 and \$250,790.96 in U.S. Currency were recovered from Bank of America via a check issued on October 29, 2021.

34. The following diagram illustrates the flow of the Tabernacle of Refuge PPP loan proceeds into BOA x3203, CapOne x8678, and BOA x3268:



Conclusion

35. The evidence in this declaration provides probable cause to believe, and I do believe, that the Defendant Property constitutes: (a) property involved in a transaction or attempted transaction in violation of the federal money laundering statutes, 18 U.S.C. §§ 1956 or 1957, or property traceable to such property, and is thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(A); or (b) proceeds traceable to false statements made on bank loan applications, in violation of 18 U.S.C. §§ 1343 (Wire Fraud) and 1344 (Bank Fraud), and is thus subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C).

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 15th day of June 2022.



Christopher Chew
Special Agent
Internal Revenue Service